

**Practitioner's Docket No. MPI00-633P1RM****USSN 09/939,853****REMARKS**

The Amendments and Remarks presented herein are provided in response to the Office Action mailed March 22, 2004. Please note the change in Attorney Docket No. to MPI00-633P1RM (copy of previously submitted change form enclosed with this response).

Applicants thank the Examiner for entering the amendments filed on December 24, 2003, for reviewing the Information Disclosure Statements and for indicating that claim 71 is allowable.

In this Response, Applicants have amended the Specification to remove browser-executable code. Applicants also have canceled claims 6 and 7, amended claims 5, 9, 11, 52 and 53 and have added new claims 72 and 73. Support for the amendments to claims 9 and 11 can be found in the Specification, for example, at page 135, lines 30-31. Support for the amendment to claim 52 c) can be found in the Specification, for example, at page 132, line 19. No new matter has been added. Claims 5, 8-14, 19-21, 39, 42, 46-47, and 50-73 currently are pending.

The Examiner's remarks in the Office Action are addressed below in the order set forth therein.

**OBJECTION TO THE SPECIFICATION**

The Examiner objected to the specification due to the presence of browser-executable code. The amendments to the Specification herein replace browser executable code with resource information converted from the website address. Applicants therefore request that this objection be withdrawn.

**REJECTION OF CLAIMS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH**

Claims 6, 7, 52-60 and 65-70 were rejected under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 6 and 7 were rejected as being "vague, indefinite and incomplete." Claims 6 and 7 have been canceled, so this rejection should be withdrawn.

Claim 52 (claims 53-60 and 65-70 dependent thereon) was rejected as being "vague and indefinite" in the recitation of "protein tyrosine kinase-like activity." Applicants have deleted the recitation of variation leading to and including that phrase. In view of this amendment, Applicants respectfully ask that this rejection be withdrawn.

**REJECTION OF CLAIMS UNDER 35 U.S.C. §112, FIRST PARAGRAPH**

Claims 5-14, 19-21, 39, 42, 46, 47, 50-52 and 54-70 were rejected under 35 U.S.C. §112, first paragraph, on the grounds that the specification, while being enabling for nucleic acids of defined sequence, does not provide enablement for nucleic acids of percent sequence identities recited in the

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claims. Fifteen percent sequence difference from an enabled sequence was judged to require undue experimentation to practice.

Applicants respectfully traverse these rejections. Claim 5 (claims 8-14, -21, 39, 42, 46, 47, 50, 51, 61-64 and new claim 72 dependent thereon) and claim 52 (claims 54-70 dependent thereon) were amended to delete the recitation of variants. Claims 9 and 11 have been amended to limit the variation of the nucleotide sequence to 5% of the enabled nucleotide sequence. In addition, the breadth of the variance in these claims is limited by the dependency on claim 5. Furthermore, the specification provides guidance, for example at page 133, line 20 to page 134, line 10 and page 146, line 20 to page 147, line 15, on how to analyze a sequence and judge whether it falls within the scope of the amended claims. In view of these amendments and remarks, Applicants believe that the practice of the claimed invention would not require undue experimentation and request that this rejection be withdrawn.

#### **REJECTION OF CLAIMS UNDER 35 U.S.C. § 102**

Claim 53 was rejected under 35 U.S.C. § 102(b) as being anticipated by GenBank® Accession No. AC026539. A sequence comprising SEQ ID NOs: 140, 141, and 142 were found to encompass GenBank® Accession No. AC026539. The recitation of these three sequences has been deleted from claim 53. In view of this amendment, Applicants ask that this rejection be withdrawn.

Claim 52 was rejected under 35 U.S.C. § 102(b) as being anticipated by Pharmacia P-L Biochemicals 1984 Product Reference Guide, pages 36-37. The oligo(dA) and oligo(dT) molecules were found to contain 15 nucleotides of SEQ ID NOs: 74 and 76. In response, Applicants have amended claim 52 c) to recite that the 15 nucleotides be contiguous portions of the recited sequences. In view of this amendment, Applicants ask that this rejection be withdrawn.

Claims 65 and 67 were rejected under 35 U.S.C. § 102(b) as being anticipated by Baxter et al. because any plasmid of the reference has 15 nucleotides of the claimed molecules. Claims 65 and 67 are dependent on claim 52. In view of the amendment to claim 52, Applicants ask that this rejection be withdrawn.

#### **CONCLUSION**

The foregoing amendments and remarks are being made to place the Application in condition for allowance. Applicants respectfully request the timely allowance of the pending claims because, in view of these amendments and remarks, Applicants respectfully submit that the objection to the specification and rejections of the claims under 35 U.S.C. § 112 and 35 U.S.C. § 102 are overcome. Applicants believe that this application is now in condition for allowance. Early notice to this effect is solicited.

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned. If the Examiner disapproves of

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Applicants' amendments and remarks in this response, Applicants request a prompt mailing of a notice to that effect.

This paper is being filed timely within the three month period for response. No extensions of time are required. In the event any extensions of time are necessary, the undersigned hereby authorizes the requisite fees to be charged to Deposit Account No. 501668.

Entry of the remarks made herein is respectfully requested.

Respectfully submitted,

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June 22, 2004

By



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